

T223
T15
1868

LIBRARY OF CONGRESS



0 030 016 941 7

Law, statutes, etc.
THE

LAW OF PATENTS AND COPYRIGHTS,

T223
T15
1868
U
AS

REVISED, SIMPLIFIED, ARRANGED, AND
CONSOLIDATED,

BY THE

COMMISSION APPOINTED FOR THAT PURPOSE,

FROM

THE VARIOUS ACTS OF CONGRESS NOW IN FORCE, IN WHOLE OR IN PART.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1868.

Copy 1

TABLE OF REFERENCES TO THE STATUTES AT LARGE.

PATENTS.

Act of July 4, 1836, chapter 357, volume 5, page 117.
Act of March 3, 1837, chapter 45, volume 5, page 191.
Act of March 3, 1839, chapter 88, volume 5, page 353.
Act of August 29, 1842, chapter 263, volume 5, page 543.
Act of August 6, 1846, chapter 90, volume 9, page 59; part.
Act of May 27, 1848, chapter 47, volume 9, page 231.
Act of March 3, 1849, chapter 108, volume 9, page 395; part.
Act of March 3, 1851, chapter 32, volume 9, page 617; part.
Act of August 30, 1852, chapter 107, volume 10, page 75.
Act of August 31, 1852, chapter 108, volume 10, page 76; part.
Act of March 3, 1852, chapter 97, volume 10, page 209; part.
Act of March 3, 1855, chapter 175, volume 10, page 643; part.
Act of August 18, 1856, chapter 129, volume 11, page 81; part.
Act of March 3, 1859, chapter 80, volume 11, page 410; part.
Act of February 18, 1861, chapter 37, volume 12, page 130.
Act of March 2, 1861, chapter 88, volume 12, page 246.
Act of March 3, 1863, chapter 102, volume 12, page 796.
Act of June 25, 1864, chapter 159, volume 13, page 194.
Act of March 3, 1865, chapter 112, volume 13, page 533.
Act of June 27, 1866, chapter 143, volume 14, page 76.
Act of March 29, 1867, chapter 17, volume —, page —.

COPYRIGHTS.

Act of February 15, 1819, chapter 19, volume 3, page 481.
Act of February 3, 1831, chapter 16, volume 4, page 436.
Act of June 30, 1834, chapter 267, volume 4, page 728.
Act of August 18, 1856, chapter 169, volume 11, page 138.
Act of February 5, 1859, chapter 22, volume 11, page 380; part.
Act of February 18, 1861, chapter 37, volume 12, page 130.
Act of March 3, 1865, chapter 126, volume 13, page 540.
Act of February 18, 1867, chapter 43, volume 14, page 395.

ACT OF 1865.

AN ACT supplemental to an act entitled "An act to amend the several acts respecting copyright," approved February 3, 1831, and to the acts in addition thereto and amendment thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of said act shall extend to and include photographs and the negatives thereof which shall hereafter be made, and shall enure to the benefit of the authors of the same in the same manner, and to the same extent, and upon the same conditions as to the authors of prints and engravings.

SEC. 2. *And be it further enacted,* That a printed copy of every book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which a copyright shall be secured under said acts, shall be transmitted, free of postage or other expense, by the author or proprietor thereof, within one month of the date of publication, to the Library of Congress at Washington for the use of said Library; and the Librarian of Congress is hereby required to give a receipt in writing for the same.

SEC. 3. *And be it further enacted,* That if any proprietor of a book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which a copyright shall be secured as aforesaid, shall neglect to deliver the same pursuant to the requirement of this act, it shall be the duty of the Librarian of Congress to make demand thereof in writing, at any time within twelve months after the publication thereof; and in default of the delivery thereof within one month after the demand shall have been made, the right of exclusive publication secured to such proprietor under the acts of Congress respecting copyright shall be forfeited.

SEC. 4. *And be it further enacted,* That in the construction of this act the word "book" shall be construed to mean every volume and part of a volume, together with all maps, prints, or other engravings belonging thereto; and shall include a copy of any second or subsequent edition which shall be published with any editions, whether the first edition of such book shall have been published before or after the passage of this act: *Provided, however,* That it shall not be requisite to deliver to the said Library any copy of the second or any subsequent edition of any book, unless the same shall contain additions as aforesaid, nor of any book which is not the subject of copyright.

Approved March 3, 1865.

①



CHAPTER I.

OF ORGANIZATION.

SEC.

1. Patent Office established.
2. Officers and employés.
3. Additional and temporary employés.
4. Salaries.
5. Oath of office.
6. Official bonds.
7. Prohibition from acquiring interest in patents.

SEC.

8. Duties of Commissioner.
9. Seal of office.
10. Duties of chief clerk.
11. Duties of examiners in chief.
12. Library.
13. Display of models.
14. Annual report.
15. Refusal to recognize agent.

SECTION 1. There shall be established and attached to the Patent Office established. Department of the Interior an office to be known as the Patent Office, wherein all records, books, models, drawings, specifications, and other papers and things pertaining to patents, shall be safely kept and preserved.

SEC. 2. The officers and employés of said office shall be: one Commissioner of Patents and three examiners in chief, to be appointed by the President, by and with the advice and consent of the Senate; one chief clerk, twenty principal examiners, twenty assistant examiners, twenty second assistant examiners, one disbursing clerk, one librarian, one draughtsman, one machinist, four third class clerks, eight second class clerks, and one messenger, to be appointed by the Commissioner, subject to the approval of the Secretary of the Interior.

3 Mar., 1855, ch. 175, §10, v. 10, p. 670. 18 Aug., 1856, ch. 129, §9, v. 11, p. 91. 2 Mar., 1861, ch. 88, §2, v. 12, pp. 246, 247.

SEC. 3. The Commissioner may appoint, subject to the approval of the Secretary of the Interior, such an additional number of principal examiners, assistant examiners, and second assistant examiners, not exceeding four of each class, and as many temporary clerks, watchmen, and laborers, as the prompt despatch of business and the security of the office may require, provided the total annual expenses of the Patent Office shall not exceed the total annual receipts.

Salaries.

27 May, 1848, ch.
47, §1, v. 9, p. 231.
31 Aug., 1852, ch.
108, §1, v. 10, p. 95.
3 Mar., 1853, ch.
97, §§1, 3, v. 10, p.
209.
22 Apr, 1854, ch.
52, §§1, 2, v. 10, p.
276.
3 Mar., 1855, ch.
175, §25, v. 10, p. 674.
2 Mar, 1861, ch.
88, §4, v. 12, p. 247.

SEC. 4. The salaries of the officers and employés of the Patent Office shall be as follows:

Of the Commissioner of Patents, four thousand five hundred dollars.

Of the examiners in chief, three thousand dollars each.

Of the chief clerk, two thousand five hundred dollars.

Of the principal examiners, two thousand five hundred dollars each.

Of the assistant examiners, one thousand eight hundred dollars each.

Of the second assistant examiners, one thousand six hundred dollars each.

Of the disbursing clerk, one thousand eight hundred dollars.

Of the librarian, one thousand eight hundred dollars.

Of the draughtsman and machinist, one thousand six hundred dollars each.

Of the third class clerks, one thousand six hundred dollars each.

Of the second class clerks, one thousand four hundred dollars each.

Of the messenger, one thousand dollars.

Of the temporary clerks, not to exceed the rate of ten cents per hundred words.

Of watchmen and laborers, a fair compensation, to be fixed by the Commissioner.

Oath of office.

4 July, 1836, ch.
357, §3, v. 5, p. 118

SEC. 5. The officers and employés, before entering upon their duties, shall each make oath or affirmation to support the Constitution of the United States, and truly and faithfully to execute the trusts committed to them.

Official bonds.

4 July, 1836, ch.
357, §3, v. 5, p. 118.
31 Aug., 1852, ch.
108, §1, v. 10, p. 95.

SEC. 6. The Commissioner, chief clerk, and disbursing clerk, before entering upon their duties, shall severally give bonds, with sureties, to the Treasurer of the United States; the former in the sum of ten thousand dollars, and the two latter in the sum of five thousand dollars each, conditioned for the faithful discharge of their duties, and that they will render, to the proper officers of the treasury, a true and faithful account of all moneys received by virtue of their office.

Prohibition from acquiring interest in patents.

4 July, 1836, ch.
357, §2, v. 5, p. 118.

SEC. 7. All officers and employés, during the period for which they shall hold their appointments, shall be disqualified and interdicted from acquiring or taking, except by in-

heritance, any right or interest, directly or indirectly, in any patent issued by said office.

SEC. 8. It shall be the duty of the Commissioner, under the direction of the Secretary of the Interior, to superintend and perform all the duties respecting the granting and issuing of patents for inventions and discoveries, as are herein provided for, or shall hereafter be, by law, directed to be done; and he shall have charge of all books, records, papers, models, machines, and other things belonging to said office; and he may send and receive by mail, free of postage, letters and packages relating to the business of the office, including Patent Office reports.

Duties of Commissioner.

4 July, 1836, ch. 357, §1, v. 5, p. 117.
27 May, 1848, ch. 47, §4, v. 9, p. 232.

SEC. 9. The Commissioner shall cause a seal to be provided for said office, with such device as the President may approve, wherewith all manner of records or papers issued from said office, to be used in evidence, shall be authenticated.

Seal of office.

4 July, 1836, ch. 357, §4, v. 5, p. 118.

SEC. 10. It shall be the duty of the chief clerk, under the direction of the Commissioner, to supervise the duties of the other clerks, and to see that they are properly distributed and faithfully performed; and he shall, in all cases, during the necessary absence of the Commissioner, or when the office of Commissioner shall become vacant, perform all duties pertaining to the office of Commissioner.

Duties of chief clerk.

4 July, 1836, ch. 357, §2, v. 5, p. 118.
26 Aug., 1842, ch. 202, §13, v. 5, p. 525.
4 How., 663, 688.
1 Wood. & Miu., 254, 392.
17 How., 41.

SEC. 11. The examiners in chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the applicant, to revise and determine upon the validity of adverse decisions of examiners both in patent and interference cases, and perform such other duties as may be assigned them; and they shall be governed in their action by rules prescribed by the Commissioner.

Duties of examiners in chief.

2 Mar., 1861, ch. 68, §2, v. 12, pp. 246, 247.

SEC. 12. There shall be purchased by the librarian, for the use of said office, a library of such scientific works and periodicals, both foreign and American, as shall be calculated to aid the officers in the discharge of their duties.

Library.

4 July, 1836, ch. 357, §19, v. 5, p. 125.

SEC. 13. The Commissioner shall cause to be classified and arranged in rooms or galleries provided for that purpose, in suitable cases, the models, specimens of composition, fab-

Display of models.

4 July, 1836, ch. 357, §20, v. 5, p. 125.

rics, manufactures, works of art and designs, which have been or shall be deposited in said office; and the rooms and galleries shall be kept open, and the articles therein subject to inspection during suitable hours.

Annual report.

3 Mar., 1837, ch.
45, §14, v. 5, p. 196.
3 Mar., 1859, ch.
80, §4, v. 11, p. 422.

SEC. 14. The Commissioner shall lay before Congress in January of each year a report giving a detailed statement of the expenditures made by him from the Patent Office fund; a list of all patents which were granted during the preceding year, designating under proper heads the subjects of such patents; an alphabetical list of the patentees, with their places of residence; a list of all patents which have expired during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public; and said report, with the plates and drawings necessary to illustrate each subject, shall be in one volume, not to exceed eight hundred pages.

Refusal to recognize agent.

2 Mar., 1861, ch.
88, §8, v. 12, p. 247.

SEC. 15. For gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the President.

CHAPTER II.

OF PATENTS.

- SEC.
16. Issuing, signing, and recording of patents.
 17. Contents and grant of patents.
 18. What may be patented.
 19. Designs may be patented.
 20. Foreign patents may be patented.
 21. Description and specification.
 22. Printing papers.
 23. Drawings.
 24. Specimen of ingredients.
 25. Model.
 26. Oath of applicant.
 27. Examination of application.
 28. Date of patent.
 29. Time to complete application.
 30. Patents may issue to assignees.
 31. Patents may issue to legal representatives.
 32. Second application in lapsed case.
 33. Assignments, grants, and conveyances.
 34. Right of purchaser before patent.
 35. Patented articles to be marked.
 36. False marking; penalty.
 37. Caveats.
 38. Rejected applications.
 39. Restoring models.
 40. Notice of interference.
 41. Affidavits and depositions.

- SEC.
42. Duty of clerk of court.
 43. Fees and rights of witnesses.
 44. Appeal to examiners in chief.
 45. Appeal to Commissioner.
 46. Appeal to a justice of supreme court of District.
 47. When to justice, duty of applicant.
 48. Duty of justice.
 49. Duty of Commissioner.
 50. Refusal to grant Patent. Remedy in equity.
 51. Reissues.
 52. Disclaimers.
 53. Actions cognizable by circuit courts.
 54. Appeal to Supreme Court.
 55. Copies of records.
 56. Proceedings in equity in interference cases.
 57. Damages for infringement.
 58. Actions for infringement prior to disclaimer.
 59. Notice of special matter.
 60. Prior knowledge or use in foreign country.
 61. Patent Office fees.
 62. Patent Office fees may be paid to whom.
 63. Patent Office fund.

SEC. 16. All patents issued by the Patent Office shall be in the name of the United States of America, under the seal of said office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner, and they shall be recorded, together with the descriptions, specifications, and drawings, in said office, in books to be kept for that purpose.

SEC. 17. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and in its terms grant to the applicant, his heirs, executors, administrators, or assigns, for the term of seventeen years, the full and exclusive right to make, use and vend the said invention or discovery, referring to the specifications for the particulars thereof, a copy of which, with the duplicate drawing, shall be annexed to the patent and be a part thereof.

Issuing, signing,
and recording of
patents.

4 July, 1836, ch.
357, §5, v. 5, p. 118.
3 Mar., 1849, ch.
108, §2, v. 9, p. 395.

Contents and grant
of patents.

4 July, 1836, ch.
357, §5, v. 5, p. 118.
3 Mar., 1837, ch.
45, §6, v. 5, p. 195.

Baldwin, 322.
4 Ohio, 310.
7 Pet., 319.
15 Wend., 395.
2 McLean, 178.
3 McLean, 297.
2 Blatchf., 23.
2 Wash., 126.
Pet. C. C., 341.

What may be patented.

4 July, 1836, ch. 357, §6, 7, v. 5, pp. 119.
3 Mar., 1839, ch. 88, §7, v. 5, p. 354.
29 Aug., 1842, ch. 263, §3, v. 5, pp. 543, 544.
2 Mar., 1861, ch. 88, §11, v. 12, p. 248.

Pet. C. C., 341, 400.

4 Wash., 12.
1 How., 208.
15 How., 267.
10 How., 496.
1 Gall., 480.
3 Wheat., 516.
2 Story, 411.
15 How., 267.

SEC. 18. Any person having invented or discovered any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, before his invention or discovery thereof, and not at the time patented or described in any printed publication in this or any foreign country, nor in public use or on sale with his consent, for more than two years prior to his application, or to the extent of abandonment, and who shall desire to obtain an exclusive property therein, may make application therefor in writing to the Commissioner, and on due proceedings had, the Commissioner may grant a patent therefor.

11 How., 265. 14 How., 175. 2 Wall, jr., 360. 3 Sumn., 518. Brightly, 99. 4 McLean, 180, 461. 4 Wash., 52. 1 Blatchf., 248, 463, 494. 1 Wash., 171. 3 Wash., 198. 1 Gall., 439, 479. 2 Gall., 53. Pet. C. C., 342. 1 Mass., 476. 7 Wheat., 430. 4 Mass., 7. Bald., 314. 2 McLean, 178. 5 McLean, 88. 2 Blatchf., 200, 237, 243, 278. 16 Penn., 352. 1 Curt., 293. 15 How., 122. 6 McLean, 347, 561. 1 Sumn., 487. 2 Story, 194, 411. 1 Story, 281, 597. 4 How., 403. 2 Wood. & Min., 143. 2 Curt., 555. 21 How., 329.

Designs may be patented.

29 Aug., 1842, ch. 263, §3, v. 5, pp. 543, 544.

2 Mar., 1861, ch. 88, §11, v. 12, p. 248.

4 McLean, 180.
1 Blatchf., 248.

SEC. 19. Any citizen of the United States, or any alien who has resided therein one year, and taken the oath of his intention to become a citizen, who by his own industry, genius, efforts, and expense, has invented or produced any new and original design for a manufacture, bust, statue, alto relievo, or bass relief, or any new and original impression, ornament, pattern, print or picture, to be placed on or worked into any article of manufacture; or any new and original shape or configuration of any such article, the same not having been known or used by others before his application for a patent, may also, on like terms and conditions, obtain a patent therefor.

Foreign patents may be patented.

4 July, 1836, ch. 357, §8, v. 5, pp. 120, 121.

3 Mar., 1839, ch. 88, §6, v. 5, p. 354.

5 McLean, 78, 80.
15 How., 112.

SEC. 20. No person shall be debarred from receiving a patent for his invention or discovery by reason of his having first patented it in a foreign country; provided the same shall not have been introduced into public and common use in the United States prior to the application, and that the patent shall be limited to seventeen years from the date or publication of the foreign patent.

Description and specification.

4 July, 1836, ch. 357, §6, v. 5, p. 119.

3 Wash., 198.
Pet. C. C., 401.
1 Mass., 187, 476.
2 Mass., 118.
4 Wash., 14, 73.
1 Paine, 207, 450.
7 Wheat., 434.
1 Story, 285, 292.
3 McLean, 260,
441, 444, 447.

SEC. 21. Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a

machine, he shall explain the principle thereof, and the several modes in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out the part, improvement or combination which he claims as his invention or discovery; which description and specification shall be signed by the inventor and attested by two witnesses.

2 Blatchf., 9.
3 Wood & Min., 30, 56.
5 McLean, 55.
11 How., 606.
15 How., 119, 267.
5 How., 5.
2 Wall, jr., 363.
2 Brock., 309.
Bald., 314.
24 How., 168.
2 Story, 440.
22 How., 139.
1 Blatchf., 378.
1 Curt., 263.

SEC. 22. The Commissioner may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed, at the cost of the party filing them.

Printing papers.
2 March, 1861, ch. 88, § 8, v. 12, p. 247.

SEC. 23. The applicant shall also furnish original and duplicate drawings, with written references, when the nature of the case admits of drawings; the original, signed by the applicant and attested by two witnesses, to be filed in the Patent Office, and the duplicate to be attached to the patent as a part of the specification.

Drawings.
4 July, 1836, ch. 357, § 6, v. 5, p. 119.
3 Mar., 1837, ch. 45, § 6, v. 5, p. 195.
4 Mass., 9.
3 McLean, 261.
3 Story, 133.

SEC. 24. Where the invention or discovery is of a composition of matter, the applicant shall furnish specimens of ingredients, and of the composition, sufficient in quantity for the purpose of experiment.

Specimen of ingredients.
4 July, 1836, ch. 357, § 6, v. 5, p. 119.

SEC. 25. The applicant shall also furnish a model of his invention or discovery, in all cases which admit of representation by model, of a convenient size to exhibit advantageously its several parts, but the Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings.

Model.
4 July, 1836, ch. 357, § 6, v. 5, p. 119.
2 Mar., 1861, ch. 88, § 3, v. 12, p. 247.
6 How., 485.
Bald., 314.
20 How., 409.

SEC. 26. The applicant shall make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, design, or improvement for which he solicits a patent; that he does not know or believe that the same was ever before known or used; and of what country he is a citizen; which oath or affirmation may be made before any person within the United States authorized by law to administer oaths; or when the applicant resides in a foreign country, before any minister plenipotentiary, chargé d'affaires, consul, or commercial agent, holding commission under the government of the United States, or before any notary public of the foreign country in which the applicant may be.

Oath of applicant.
4 July, 1836, ch. 357, § 6, v. 5, p. 119.
29 Aug., 1842, ch. 263, § 4, v. 5, p. 544.
1 Gall., 433.
6 How., 482.
1 Met., 191.

Examination of application.

4 July, 1836, ch. 357, §7, v. 5, pp. 119, 120.

2 Pet., 18.
2 Blatchf., 34.
1 Wall, jr., 349
1 Blatchf., 509.

SEC. 27. On the filing of any such application, and payment of the duty required by law, the Commissioner shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

Date of patent.

4 July, 1836, ch. 357, §8, v. 5, pp. 120, 121.
3 Mar., 1863, ch. 102, §3, v. 12, p. 796.

SEC. 28. Every patent shall date as of a day not later than six months after the time at which it was granted, and notice thereof was sent to the applicant or his agent; and whenever the applicant requests it, the patent shall date from the time of filing the specification and drawings, if not more than six months prior to the actual issuing of the patent.

Time to complete applications.

2 March, 1861, ch. 88, §12, v. 12, pp. 248, 249.

SEC. 29. All applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof they shall be regarded as abandoned by the parties thereto, unless it be shown, to the satisfaction of the Commissioner, that such delay was unavoidable.

Patents may issue to assignees.

3 March, 1837, ch. 45, §6, v. 5, p. 195.

1 Blatchf., 509.
6 Cra., 327.
1 Gall., 430.
4 How., 686.
10 How., 493.

SEC. 30. Patents may be granted and issued to the assignee of the inventor or discoverer, the assignment thereof being first entered of record in the Patent Office; but in such case the application shall be made and the specifications sworn to by the inventor or discoverer.

Patents may issue to legal representatives.

4 July, 1836, ch. 357, §10, v. 5, p. 121.

SEC. 31. Where any person has made any new invention or discovery, for which a patent might have been granted, and such person shall die before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs-at-law of the deceased, in case he shall have died intestate; but if otherwise, then in trust for his devisees, in as full and ample manner, and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime, and when the application shall be made by such legal representatives, the oath or affirmation required to be made shall be so varied as to be applicable to them.

Second application in lapsed case.

25 June, 1864, ch. 159, §1, v. 13, p. 194.
3 Mar., 1865, ch. 112, §1, v. 13, p. 533.

SEC. 32. Any person having an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who has failed to make payment thereof,

shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application, provided the second application be made within two years after the allowance of the original application. But no person who has used any such invention or discovery shall be held responsible in damages for any use thereof before the issue of the patent.

SEC. 33. Every patent shall be assignable in law either as to the whole interest or any part thereof, by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent, to the whole or any specified part of the United States; which assignment, grant, or conveyance shall be recorded in the Patent Office within three months from the date thereof, otherwise it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

Assignm'ts, grants,
and conveyances.

4 July, 1836, ch.
357, §11, v. 5, p. 121.

3 McLean, 428.
2 Blatchf., 50, 148.
5 McLean, 132.
10 How., 494.
14 How., 549.
18 How., 294.
4 Mass., 15.
6 Blatchf., 260.
2 Story, 542, 615.
3 Story, 131.
4 How., 711.
15 Barb., S. C.
315.
19 How., 221.
17 How., 451.

SEC. 34. Every person having purchased or constructed any newly invented or discovered machine or other patentable article prior to the application by the inventor or discoverer for a patent, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor; and no patent shall be invalid by reason of such purchase, sale, or use prior to the application for a patent, except on proof of abandonment of the invention or discovery to the public, or that the purchase, sale, or prior use has been for more than two years before such application.

Right of purchasers
before patent.

3 Mar., 1839, ch.
88, §7, v. 5, p. 354.

2 Blatchf., 254.
1 How., 208.
4 How., 403.
2 Curt., 555.
3 Story, 406.
1 Wood & Min.
301.
21 How., 330.
1 Blatchf., 250.
3 Wall, jr., —.

SEC. 35. It shall be the duty of all patentees and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented, either by fixing thereon the word "patented," together with the day and year the patent was granted, or when, from the character of the article, this cannot be done, by fixing to it, or to the package wherein one or more of them is enclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damage shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the plaintiff's patent, and continued, after such notice, to make or vend the article so patented.

Patented articles
to be marked.

2 Mar., 1861, ch.
88, §13, v. 12, p. 249.

False marking;
penalty.

29 Aug., 1842, ch.
263, §5, v. 5, p. 544.

2 Curt., 506.

SEC. 36. If any person shall, in any manner, mark upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee or his assigns or legal representatives; or if any person shall in any manner affix the word "patent" or "patentee" or the words "letters patent," or any word of like import, upon any such patented article, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or if any person shall in any manner mark upon any unpatented article the word "patent" or any word importing that the same is patented, for the purpose of deceiving the public, in either case he shall be liable for such offence to a penalty of not less than one hundred dollars, with costs, the one moiety thereof to the person who shall sue for the same, and the other to the Patent Office fund, to be recovered by action in any court of competent jurisdiction.

Caveats.

4 July, 1836, ch.
357, §§8, 12, v. 5,
pp. 120, 121.

2 Mar., 1861, ch.
88, §9, v. 12, p. 247.

6 McLean, 304,
18 How. Pr., 9.

SEC. 37. Any citizen of the United States, or alien residing therein one year next preceding, having made oath of his intention to become a citizen, who shall have made any new invention or discovery, and shall desire further time to mature the same, on paying the duty required by law, may file in the Patent Office a caveat setting forth the design thereof, and its distinguishing characteristics, and praying protection of his right until he shall have matured his invention; and such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application shall be made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person filing the caveat, who, within three months—to be computed from the time of placing the notice in the post office at Washington, with the usual time required for transmitting it to the caveator added thereto—shall file his description, specification, drawings, and model, if he would avail himself of his caveat.

SEC. 38. Whenever on examination any claim for a patent shall be rejected for any reason whatever, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if after receiving such notice the applicant shall persist in his claim for a patent, which he may do, either with or without altering his specifications, the Commissioner shall order a re-examination of the case.

Rejected applications.
4 July, 1836, ch. 357, § 7, v. 5, pp. 119, 120.

SEC. 39. The Commissioner may restore to the respective applicants, if demanded within one year from the time of final rejection, such of the models belonging to rejected applications for patents as he shall not think necessary to be preserved, and if not so demanded, he may sell or otherwise dispose of them, adding the proceeds to the Patent Office fund.

Restoring models.
2 Mar., 1861, ch. 88, § 5, v. 12, p. 247.

SEC. 40. Whenever an application shall be made for a patent, which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, or with any caveat on file in the office, he shall give notice thereof to the applicant, or patentee, as the case may be.

Notice of interference.

4 July, 1836, ch. 357, § 8, v. 5, pp. 120, 121.

SEC. 41. The Commissioner may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

Affidavits and depositions.

3 Mar., 1839, ch. 88, § 12, v. 5, p. 355.
2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

SEC. 42. In any contested case pending in the Patent Office, upon the application of a party thereto, or his agent or attorney, the clerk of any court of the United States, for any district or territory wherein the testimony is to be taken, shall issue subpœna for any witness residing or being within said district or territory, commanding him to appear and testify before any officer authorized to take depositions and affidavits, at any time and place in the subpœna stated; and if any witness, after being duly served with such subpœna, shall neglect or refuse to appear, or after appearing shall refuse to testify, such neglect or refusal being proved to the satisfaction of the judge of the court whose clerk issued the subpœna, he may enforce obedience to the process, or punish the disobedience as in other like cases.

Duty of clerk of court.

2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

Fees and rights of witnesses.

2 Mar., 1861, ch. 88, §1, v. 12, p. 246.

SEC. 43. Every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States, but no witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him, nor be deemed guilty of contempt for disobeying such subpœna, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, shall be paid or tendered him at the time of the service of the subpœna; nor for refusing to disclose any secret invention or discovery made or owned by himself.

Appeal to examiners in chief.

2 Mar., 1861, ch. 88, §2, v. 12, p. 247.
27 June, 1866, ch. 143, §1, v. 14, pp. 76, 77.

3 Mar., 1837, ch. 45, §8, v. 5, p. 193.

SEC. 44. Any applicant, patentee, or caveator, party to a rejected claim, reissue, or interference case, if he is dissatisfied with the decision of the examiners thereon, may, on payment of the duty required by law, appeal to the board of examiners in chief.

Appeal to Commissioner.

2 Mar., 1861, ch. 88, §2, v. 12, p. 247.

SEC. 45. If such party is dissatisfied with the decision of the examiners in chief, he may, on payment of the duty required by law, appeal to the Commissioner in person.

Appeal to justice of supreme court of District.

3 Mar., 1839, ch. 88, §§10, 11, v. 5, pp. 354, 355.
30 Aug., 1852, ch. 107, §1, v. 10, p. 75.

SEC. 46. If such party is dissatisfied with the decision of the Commissioner, he may appeal to the chief justice, or any one of the associate justices of the supreme court of the District of Columbia.

When to justice; duty of appellant.

3 Mar., 1839, ch. 88, §11, v. 5, pp. 354, 355.

SEC. 47. When, in rejected claim, reissue, or interference cases, an appeal is taken to the chief justice or either of the associate justices of the supreme court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

Duty of justice.

3 Mar., 1839, ch. 88, §11, v. 5, pp. 354, 355.
30 Aug., 1852, ch. 107, §§1, 2, v. 10, p. 75.

SEC. 48. It shall be the duty of such chief or associate justice, on petition, to hear and determine such appeal, and to review the decision appealed from in a summary way, on the evidence produced, at such early and convenient time as he may appoint, notifying the Commissioner of the time and place of hearing; and the review shall be confined to the points set forth in the reasons of appeal. And after hearing the case, he shall return all the papers to the Commissioner, with a certificate of his proceedings and decision, which shall be entered of record in the Patent Office,

and govern the further proceedings in the case. But no opinion or decision of the justice in any such case shall preclude any person interested from the right to contest the validity of such patent in any judicial court wherein the same may be called in question.

SEC. 49. On receiving notice of the time and place of hearing such appeal, the Commissioner shall notify all parties who appear to be interested therein, in such manner as the justice may prescribe. He shall also lay before the justice all the original papers and evidence in the case, together with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or on the order of the justice, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the machine or other thing for which a patent is demanded.

SEC. 50. Whenever a patent on application shall have been refused, for any reason whatever, either by the Commissioner or by a justice of the supreme court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity in the supreme court of the District of Columbia; and the court, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case shall appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent, on the applicant filing in the Patent Office a copy of the adjudication, and otherwise complying with the requisitions of law. And in all cases where there is no opposing party a copy of the bill shall be served on the Commissioner, and all the costs of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not.

SEC. 51. Whenever any patent shall be inoperative or invalid, by reason of a defective or insufficient description or specification, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim, if the error has arisen by inadvertency, accident, or mistake, and without any fraudulent or deceptive intention,

Duty of Commissioner.

3 Mar., 1839, ch. 88, § 11, v. 5, pp. 354, 355.

Refusal to grant patent; remedy in equity.

4 July, 1836, ch. 357, § 16, v. 5, pp. 123, 124.
3 Mar., 1839, ch. 88, § 10, v. 5, p. 354.

Reissues.

4 July, 1836, ch. 357, § 13, v. 5, p. 122.
3 Mar., 1837, ch. 45, § 8, v. 5, p. 193.

6 Pet., 242.
7 Pet., 314.
14 Pet., 462.
2 Story, 439.
3 Story, 744, 753.

the Commissioner shall, on the surrender of such patent, cause a new patent for the same invention to be issued to the patentee, or, in case of his death or assignment of any part of the original patent, to his executors, administrators or assigns, for the unexpired part of the term of the original patent. And the specification of claim in every such case shall be subject to revision and restriction, in the same manner as original applications are. And the patent so reissued, together with the corrected description and specification, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as though the same had been originally filed in such corrected form.

Disclaimers.

3 Mar., 1837, ch. 45, §§ 7, 9, v. 5, pp. 193, 194.

Bald. 313.
1 Story, 294, 600.
3 McLean, 349, 449.
5 McLean, 56.
5 Denio, 318.
2 Whar. Dig., 413.
1 Blatchf., 245, 450, 461.
3 Blatchf., 199.
2 Blatchf., 198.
14 How., 221.
15 How., 121.
19 How., 106.
20 How., 387.

SEC. 52. Whenever any patentee shall have, through inadvertency, accident or mistake, and without any fraudulent or deceptive intention, claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his executors, administrators and assigns, whether of the whole or any sectional interest therein, on payment of the duty required by law, may make disclaimer of such parts of the thing patented as he shall not claim to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; which disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the disclaimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

Actions cognizable by circuit courts.

4 July, 1836, ch. 337, § 17, v. 5, p. 124.

1 Blatchf., 630.
6 Cra., 337.
1 Gall., 430.
4 Mass., 15.
4 Wash., 584.
2 Paine, 246.
1 Wood. & Min., 37.
1 Blatchf., 486, 630.
3 Coms., 14.
14 How., 549.
40 Maine, 434.

SEC. 53. All actions and suits arising under the patent laws of the United States shall be originally cognizable, as well in equity as at law, whether civil or penal in their nature, by the circuit courts of the United States, or any district court having the jurisdiction of a circuit court, and the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable.

20 How., 56, 215. 7 John., 144. 8 Page, 134. 16 Conn., 414.

SEC. 54. A writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any circuit court in any suit touching patent rights originally commenced therein, without regard to the sum or value in controversy.

7 How., 657. 10 How., 101, 346. 15 How., 465, 557. 16 How., 103. 20 How., 56, 204. 14 How., 220.

Appeal to the Supreme Court.

4 July, 1836, ch. 357, §17, v. 5, p. 124.
18 Feb., 1861, ch. 37, §1, v. 12, pp. 130, 131.

1 Blatchf., 544.
6 How., 477.

SEC. 55. Copies of any records, books, papers, or drawings belonging to the Patent Office, and printed copies of letters patent under the signature of the Commissioner, with the seal of office affixed, shall be competent evidence in all cases wherein the originals could be evidence, and any person making application therefor, and paying the fee required by law, shall have certified copies thereof.

Copies of records.

4 July, 1836, ch. 357, §4, v. 5, p. 118.
2 Mar., 1861, ch. 88, §15, v. 12, p. 249.

3 McLean, 434.
2 Blatchf., 12.
4 McLean, 371.
1 Wood & Min., 260.
14 How., 583.
9 Wend., 44.

SEC. 56. Whenever there shall be two interfering patents any person interested in any such patents, either by assignment or otherwise, may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties, and other due proceedings had, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the rights of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

Proceedings in equity in interference cases.

4 July, 1836, ch. 357, §16, v. 5, pp. 123, 124.

SEC. 57. Whenever in any action for the infringement of a patent, a verdict shall be rendered for the plaintiff, the court may enter judgment by way of penalty, according to the circumstances of the case, for any sum above the amount found by the verdict as the actual damages sustained, not exceeding three times the amount thereof, together with costs.

Damages for infringement.

4 July, 1836, ch. 357, §14, v. 5, p. 123.

1 Story, 341.
3 Story, 136, 410.
3 Wall, jr., —.
3 McLean, 583.
2 Wood & Min., 147.
2 Blatchf., 38, 201, 494.

1 Blatchf., 245, 406. 1 Wall, jr., 166. 16 How., 489. 15 How., 559. 23 How., 488.

SEC. 58. Every patentee, his executors, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity for any infringement of said patent, notwithstanding the specifications may embrace more than that of which the patentee was the original or first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff, no costs shall be recovered unless the

Actions for infringement prior to disclaimer.

3 Mar., 1837, ch. 45, §9, v. 5, p. 194.
5 McLean, 56, 84.
3 McLean, 449.
2 Story, 621.
1 Story, 294, 600.
1 Blatchf., 245.
2 Blatchf., 198.
15 How., 122.
19 How., 106.
20 How., 387.
5 Denio, 318.

proper disclaimer has been entered at the Patent Office before the commencement of the suit, and without unreasonable neglect or delay.

Notice of special matter.

4 July, 1836, ch. 357, §15, v. 5, p. 123.
3 Mar., 1839, ch. 88, §7, v. 5, p. 354.

Pet. C. C., 348.
7 Wheat., 469.
4 McLean, 179, 371, 525.
3 Wheat., 503.
4 Wash., 74, 705.
14 Pet., 459.
1 Wall, jr., 195.
1 Blatchf., 376.
14 How., 222.
15 How., 110, 141.
23 How., 7.
24 How., 168.
1 Blatchf., 597.
5 McLean, 61.
17 How., 84.
2 Story, 441.

SEC. 59. In any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove on trial any one or more of the following special matters :

First. That for the manifest purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect ; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same ; or,

Third. That he was an alien at the time his patent was granted, and had neglected for the space of eighteen months from its date to put and continue on sale to the public, on reasonable terms, his invention or discovery ; or,

Fourth. That it had been described in some printed publication prior to his supposed invention or discovery thereof ; or,

Fifth. That he was not the original and first inventor or discoverer of the whole or of any material and substantial part of the thing patented ; or,

Sixth. That it had been in public use or on sale in this country, with his consent, for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names and residences of the persons alleged to have had the prior knowledge thereof, and where and by whom it had been used ; and on satisfactory proof of any one or more of the special matters alleged, judgment shall be rendered for the defendant, with costs.

Prior knowledge or use in foreign country.

4 July, 1836, ch. 357, §15, v. 5, p. 123.

5 McLean, 61.
6 McLean, 313.

SEC. 60. Whenever it shall satisfactorily appear that the patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery of the thing patented or any part thereof having been before known or used in a foreign country if it had not before been patented or described in a printed publication.

SEC. 61. The following shall be the rates for Patent Office fees: Patent Office fees.

On filing each original application for a patent, fifteen dollars. 2 Mar., 1861, ch. 88, §10, v. 12, p. 248.
27 June, 1866, ch. 143, §1, v. 14, pp. 76, 77.

On issuing each original patent, twenty dollars.

On filing each caveat, ten dollars.

On every appeal from the primary examiners to the examiners in chief, ten dollars.

On every appeal from the examiners in chief to the Commissioner, twenty dollars.

On every application for the reissue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

For certified copies of patents and other papers, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

SEC. 62. Patent Office fees may be paid to the Commissioner, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public moneys, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor. Patent Office fees, may be paid to whom.
6 Aug., 1846, ch. 90, §15, v. 9, p. 62.

SEC. 63. All moneys paid as Patent Office fees shall be appropriated to a fund to be known as the Patent Office fund, to be used for the payment of the salaries of the officers and employes, and all other expenses of the Patent Office, and for such other purposes as may be specially provided by law. Patent Office fund.
3 Mar., 1837, ch. 45, §14, v. 5, pp. 194, 195.

CHAPTER III.

OF COPYRIGHTS.

SEC

64. Patent Office to have charge of copyrights.
65. What may be copyrighted.
66. Term of copyright.
67. Extension of copyright.
68. Assignment of copyright to be recorded.
69. Recording copyrights ; duty for applicant.
70. Recording copyrights ; duty of clerk.
71. List of copyrights to Interior Department.
72. Fees of clerk.
73. Library of Congress to have copyright articles.
74. Penalty for not delivering.

SEC.

75. May be sent to library by mail free.
76. Duty of postmaster in regard to.
77. Notice of copyright.
78. Penalty for false notice.
79. Infringement of copyright book.
80. Infringement of copyright map, &c.
81. Infringement of copyright dramatic composition.
82. Infringement of manuscripts.
83. Foreign works may be printed or imported.
84. Limitation of time of action.
85. Pleading.
86. Actions cognizable by circuit court.
87. Appeals to Supreme Court.
88. Full costs to be allowed.

Patent Office to have charge of copyrights.

5 Feb., 1859, ch. 22, § 8, v. 11, pp. 380, 381.

SECTION 64. All records and other things relating to copyrights, and required by law to be preserved, shall be under the control of the Department of the Interior, and kept and preserved in that division known as the Patent Office; and the Commissioner of Patents shall have the immediate care and supervision thereof, and, under the Secretary of the Interior, shall perform all acts and duties required by law touching copyrights.

What may be copyrighted.

3 Feb., 1831, ch. 16, § 1, v. 4, p. 436.
3 Mar., 1865, ch. 126, § 1, v. 13, p. 540.
18 Aug., 1856, ch. 169, § 1, v. 11, pp. 138, 139.

8 Pet., 662.
14 How., 530.
Hopk., Ch. 351.
1 Blatchf., 625.
1 Story, 17.
3 Story, 778.
4 McLean, 316, 517.

SEC. 65. Any citizen of the United States, or resident therein, who shall be the author, inventor, or designer of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph, and his executors, administrators, or assigns, shall have the sole liberty of printing, reprinting, publishing, and vending the same; and in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others.

5 McLean, 37. 2 Wood. & Min., 46. 2 Blatchf., 46, 170, 366. 2 Paine, 383.

Term of copyright.

3 Feb., 1831, ch. 16, § 1, v. 4, p. 436.

SEC. 66. All copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

SEC. 67. The author, inventor or designer, if he be still living and a citizen of the United States or resident therein, or his widow, or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.

Extension of copy-right.

3 Feb., 1831, ch. 16, §§ 2, 3, v. 4, pp. 436, 437.

2 Wood. & Min.,

42, 8 Pet., 663.

SEC. 68. All copyrights shall be assignable in law, by an instrument of writing, and proved or acknowledged in such manner as deeds for the conveyance of land are required by law to be proved or acknowledged in the same State or district, and shall be recorded in the office where the original copyright is recorded; and every such instrument not so proved or acknowledged and recorded, within sixty days after its execution, shall be void, as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

Assignment of copyrights to be recorded.

30 June, 1834, ch. 157, § 1, v. 4, p. 728.

8 Wend., 565.

2 Wood. & Min.,

42, 510.

5 McLean, 41.

8 Pot., 661.

18 How., 171.

SEC. 69. No person shall be entitled to a copyright unless he shall, before publication, deposit a printed copy of the title of the book or other article, for which he desires a copyright, in the clerk's office of the district court of the district wherein the proprietor resides, and within three months thereafter cause to be delivered a copy of such copyright book or other article to said clerk.

Recording copyrights; duty of applicant.

3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.

2 Blatchf., 83.

1 Blatchf., 620.

5 McLean, 332.

SEC. 70. It shall be the duty of the clerk of the court to record the name of such copyright book or other article, forthwith, in a book to be kept for that purpose, in the words following: "District of —, to wit: Be it remembered, that on the — day of —, anno Domini —, A B, of the said district, hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may be,) the title of which is in the words following, to wit: (here insert the title,) the right whereof he claims as author, (or proprietor, as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., clerk of the court." And he shall give a copy of the title, under the seal of the court, to said proprietor, whenever he shall require it.

Recording copyrights; duty of clerk.

3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.

List of copyrights
to Interior De-
partment.

3 Feb., 1831, ch.
16, § 4, v. 4, p. 437.

SEC. 71. The said clerk shall, once in each year, transmit a certified transcript of his records of copyright, with all the several copyright books or other articles deposited in his office, to the Secretary of the Interior, to be preserved in his Department.

Fees of clerk.

3 Feb., 1831, ch.
16, § 4, v. 4, p. 437.
30 June, 1834, ch.
157, § 2, v. 4, p. 728.
26 Feb., 1853, ch.
80, § 1, v. 10, p. 163.

SEC. 72. For recording the title of any copyright book or other article, the clerk of the court shall receive from the person claiming the same, fifty cents; and for every copy, under seal, actually given to such person or his assigns, fifty cents; and for recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words, and for every copy thereof, ten cents for every one hundred words.

Library of Con-
gress to have
copyright ar-
ticles.

3 Mar., 1865, ch.
126, §§ 2, 4, v. 13, pp.
540, 541.
18 Feb., 1867, ch.
43, § 1, v. 14, p. 395.

SEC. 73. It shall be the duty of every proprietor of any copyright book or other article to deliver to the library of Congress at Washington, within one month after its publication, a complete printed copy thereof, and a copy of every subsequent edition wherein any changes shall be made.

Penalty for not de-
livering.

18 Feb., 1867, ch.
43, § 1, v. 14, p. 395.

SEC. 74. In default of such delivery, such proprietor shall be liable to a penalty of twenty-five dollars, to be collected by the librarian of Congress, in the name of the United States, in any district or circuit court of the United States within the jurisdiction of which the delinquent may reside or be found.

May be sent to li-
brary by mail
free.

18 Feb., 1867, ch.
43, § 2, v. 14, p. 395.

SEC. 75. Any such copyright book or other article may be sent to the librarian of Congress by mail, free of postage, provided the words "copyright matter" are plainly written or printed on the outside of the package containing the same.

Duty of postmas-
ter in regard to.

18 Feb., 1867, ch.
43, § 2, v. 14, p. 395.

SEC. 76. It shall be the duty of the postmaster to give a receipt for such package if requested, and when delivered to him to see that it is safely forwarded to its destination without cost to the proprietor.

Notice of copy-
right.

3 Feb., 1831, ch.
16, § 5, v. 4, p. 437.

1 Blatchf., 620.

SEC. 77. No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title page, or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, or photograph, by causing to be impressed on the face; or if a volume, then upon the title or frontispiece

thereof the following words, viz: "Entered according to act of Congress, in the year —, by A. B., in the clerk's office of the district court of —" (as the case may be.)

SEC. 78. If any person shall insert or impress such notice, or words purporting the same, in any book, map, chart, musical composition, print, cut, engraving, or photograph, for which he has not obtained a copyright, every person so offending shall forfeit and pay one hundred dollars; one moiety thereof to the person who shall sue for the same, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Penalty for false notice.

3 Feb., 1831, ch. 16, §11, v. 4, p. 438.

1 Blatchf., 154.

SEC. 79. If any person, after the recording of the title of any book as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or knowing the same to be so printed, published, or imported, shall sell or expose to sale, any copy of such book, such offender shall forfeit every copy thereof to said proprietor, and shall also forfeit and pay fifty cents for every sheet thereof which may be found in his possession, either printing, printed, published, imported, or exposed for sale; the one moiety thereof to the proprietor, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright book.

3 Feb., 1831, ch. 16, §6, v. 4, pp. 437, 438.

1 Story, 19.

2 Story, 115.

2 Blatchf., 47, 85.

4 McLean, 315.

4 Wash., 490.

7 How., 811.

SEC. 80. If any person, after the recording of the title of any map, chart, musical composition, print, cut, engraving, or photograph, as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or knowing the same to be so printed, published, or imported, shall sell or expose to sale, any copy of such map or other article, as aforesaid, such offender shall forfeit to the said proprietor all the plates on which the same shall be copied, and every sheet thereof either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; the one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright map, &c.

3 Feb., 1831, ch. 16, §7, v. 4, p. 438.

1 Story, 18.

2 Story, 115.

2 Blatchf., 47.

3 Story, 787.

2 Wood. & Min., 512.

4 McLean, 301, 309.

List of copyrights
to Interior De-
partment.

3 Feb., 1831, ch.
16, § 4, v. 4, p. 437.

SEC. 71. The said clerk shall, once in each year, transmit a certified transcript of his records of copyright, with all the several copyright books or other articles deposited in his office, to the Secretary of the Interior, to be preserved in his Department.

Fees of clerk.

3 Feb., 1831, ch.
16, § 4, v. 4, p. 437.
30 June, 1834, ch.
157, § 2, v. 4, p. 728.
26 Feb., 1853, ch.
80, § 1, v. 10, p. 163.

SEC. 72. For recording the title of any copyright book or other article, the clerk of the court shall receive from the person claiming the same, fifty cents; and for every copy, under seal, actually given to such person or his assigns, fifty cents; and for recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words, and for every copy thereof, ten cents for every one hundred words.

Library of Con-
gress to have
copyright ar-
ticles.

3 Mar., 1865, ch.
126, § 2, 4, v. 13, pp.
540, 541.
18 Feb., 1867, ch.
43, § 1, v. 14, p. 395.

SEC. 73. It shall be the duty of every proprietor of any copyright book or other article to deliver to the library of Congress at Washington, within one month after its publication, a complete printed copy thereof, and a copy of every subsequent edition wherein any changes shall be made.

Penalty for not de-
livering.

18 Feb., 1867, ch.
43, § 1, v. 14, p. 395.

SEC. 74. In default of such delivery, such proprietor shall be liable to a penalty of twenty-five dollars, to be collected by the librarian of Congress, in the name of the United States, in any district or circuit court of the United States within the jurisdiction of which the delinquent may reside or be found.

May be sent to li-
brary by mail
free.

18 Feb., 1867, ch.
43, § 2, v. 14, p. 395.

SEC. 75. Any such copyright book or other article may be sent to the librarian of Congress by mail, free of postage, provided the words "copyright matter" are plainly written or printed on the outside of the package containing the same.

Duty of postmas-
ter in regard to.

18 Feb., 1867, ch.
43, § 2, v. 14, p. 395.

SEC. 76. It shall be the duty of the postmaster to give a receipt for such package if requested, and when delivered to him to see that it is safely forwarded to its destination without cost to the proprietor.

Notice of copy-
right.

3 Feb., 1831, ch.
16, § 5, v. 4, p. 437.

1 Blatchf., 620.

SEC. 77. No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title page, or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, or photograph, by causing to be impressed on the face; or if a volume, then upon the title or frontispiece

thereof the following words, viz: "Entered according to act of Congress, in the year —, by A. B., in the clerk's office of the district court of —" (as the case may be.)

SEC. 78. If any person shall insert or impress such notice, or words purporting the same, in any book, map, chart, musical composition, print, cut, engraving, or photograph, for which he has not obtained a copyright, every person so offending shall forfeit and pay one hundred dollars; one moiety thereof to the person who shall sue for the same, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Penalty for false notice.

3 Feb., 1831, ch. 16, §11, v. 4, p. 438.

1 Blatchf., 154.

SEC. 79. If any person, after the recording of the title of any book as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or knowing the same to be so printed, published, or imported, shall sell or expose to sale, any copy of such book, such offender shall forfeit every copy thereof to said proprietor, and shall also forfeit and pay fifty cents for every sheet thereof which may be found in his possession, either printing, printed, published, imported, or exposed for sale; the one moiety thereof to the proprietor, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright book.

3 Feb., 1831, ch. 16, §6, v. 4, pp. 437, 438.

1 Story, 19.

2 Story, 115.

2 Blatchf., 47, 85.

4 McLean, 315.

4 Wash., 490.

7 How., 811.

SEC. 80. If any person, after the recording of the title of any map, chart, musical composition, print, cut, engraving, or photograph, as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or knowing the same to be so printed, published, or imported, shall sell or expose to sale, any copy of such map or other article, as aforesaid, such offender shall forfeit to the said proprietor all the plates on which the same shall be copied, and every sheet thereof either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; the one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright map, &c.

3 Feb., 1831, ch. 16, §7, v. 4, p. 438.

1 Story, 18.

2 Story, 115.

2 Blatchf., 47.

3 Story, 787.

2 Wood. & Min., 512.

4 McLean, 301.

309.



W OF PATENTS AND COPYRIGHTS.

Infringement of copyright dramatic composition. SEC. 81. Any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent of the proprietor thereof, shall be liable for damages therefor, to be recovered by action in any court of competent jurisdiction, such damages in all cases to be assessed at such sum, not less than one hundred dollars for the first, and fifty dollars for every subsequent performance, as to the court shall appear to be just.

18 Aug., 1856, ch.
169, §1, v. 11, p. 139.

Infringement of manuscripts. SEC. 82. Any person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, (if such author or proprietor be a citizen of the United States, or resident therein,) shall be liable to said author or proprietor for all damages occasioned by such injury, to be recovered by action in any court of competent jurisdiction.

3 Feb., 1831, ch.
16, §9, v. 4, p. 438.

5 McLean, 41, 332.
22 How. Pr., 207.
8 Pet., 657.
4 McLean, 301.

Foreign works may be printed or imported. SEC. 83. Nothing herein contained shall be construed to prohibit the printing, publishing, importation or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

3 Feb., 1831, ch.
16, §8, v. 14, p. 438.

Limitation of time of action. SEC. 84. No action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

3 Feb., 1831, ch.
16, §13, v. 4, p. 439.

Pleading. SEC. 85. In all actions arising under the laws respecting copyrights the defendant may plead the general issue, and give the special matter of defence in evidence.

3 Feb., 1831, ch.
16, §10, v. 4, p. 438.

Actions cognizable by circuit court. SEC. 86. All actions and suits arising under the copyright laws of the United States shall be originally cognizable as well in equity as at law, whether civil or penal in their nature, by the circuit courts of the United States, or any district court having the jurisdiction of a circuit court. And the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by said laws, on such terms as the court may deem reasonable.

15 Feb., 1819, ch.
19, §1, v. 3, p. 481.

5 McLean, 38,
336.
2 Wood. & Min.,
27.
4 McLean, 401.
17 How., 455.
4 Duer, 382.

Appeals to Supreme Court. SEC. 87. A writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any circuit court, in any suit touching copyrights originally commenced therein, without regard to the sum or value in controversy.

18 Feb., 1861, ch.
37, §1, v. 12, p. 130.

Full costs to be allowed. SEC. 88. In all recoveries under the copyright laws, either for damages, forfeitures or penalties, full costs shall be allowed thereon.

3 Feb., 1831, ch.
16, §12, v. 4, pp.
438, 439.